

APPLICANT: Chosen Sons Motorcycle Club of Baltimore, Inc.

**BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS**

REQUEST: A special exception and variance to permit a fraternal organization with an 85 foot front yard setback in the R1 District

Case No. 5491

HEARING DATE: August 17, 2005

ZONING HEARING EXAMINER'S DECISION

APPLICANT: Chosen Sons Motorcycle Club of Baltimore, Inc.

LOCATION: 628 Magnolia Road, Joppa Maryland 21085
Tax Map: 65 / Grid: 3D / Parcel: 325
Election District: First (1st)

ZONING: R1 / Urban Residential District

REQUEST: A special exception pursuant to Section 267-53C(2) of the Harford County Code, to permit a fraternal organization, and a variance, pursuant to Section 267-53(C)(2)(a) to allow a front yard depth of less than 100 feet (85 feet proposed).

TESTIMONY AND EVIDENCE OF RECORD:

For the Applicant testified Christopher Streett, who identified himself as an officer of Chosen Sons Motorcycle Club of Baltimore, Inc. Mr. Streett described the subject property as being 2.55 acres in size, improved by a single family home now used as a meeting house by the Applicant. The property is zoned R1 / Urban Residential and is located between the communities of Edgewood and Joppatowne. The property is a corner lot, with frontage on the south side of Hanson Road and on the west side of Magnolia Road. The Applicant purchased the property in October 2002.

The lot is somewhat irregular, dropping off rapidly in the rear of the property to a stream. The improvements on the property are at a somewhat higher elevation than either Magnolia Road or Hanson Road. The change in elevation of the property is clearly shown by that photograph introduced and accepted as Applicant's Exhibit 4.

Mr. Streett described the usability of the subject property as being somewhat restricted by the existence of a sewer line which runs from the improvements down to Hanson Road. The approximate location of that sewer line is shown by that photograph marked as Applicant's Exhibit 5.

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According to Mr. Streett, the Applicant will be working to improve the stream to the rear of the property, which has eroded over the years.

Mr. Streett identified the neighborhood as consisting of, for the most part, single family homes.

The Applicant has no plans to enlarge the improvements on site. It is used primarily for regular weekly meetings of the Applicant which generally last for approximately two hours, one evening per week. The property will also occasionally be used for special meetings. Mr. Streett stated that the Club plans to have no parking in the front yard of the property, with a parking pad planned to be constructed to the side and rear of the existing garage. Attachment 3 to the Staff Report is a site plan showing the proposed parking. The Applicant is proposing this relocated parking area in order to avoid having parking within the front 50 feet of the subject property. There is at present a small light on the garage, along with a relatively small sign with the Applicant's name. The Applicant proposes no additional lighting or signage.

Mr. Streett identified the Applicant as a fraternal organization originally started in Baltimore City, which now has a Harford County chapter. The organization does much charitable work, and contributes significant sums of money to various charities. The meetings would be normally attended by approximately 40 people, with no larger gatherings planned. The property will be maintained in its present condition or better. The Applicant has and will continue to make every effort to maintain the property and the yards in good condition so as not to detract from the neighborhood. Mr. Streett stated that at no time will the use of the property ever be allowed to become an annoyance or a nuisance to the neighborhood.

Mr. Streett indicated that the neighbors are aware of this request, and none has expressed any opposition. To the contrary, one or more neighbors have expressed their opinion that the Applicant is properly maintaining the subject property, and that the use is not harmful to the neighborhood.

Next for the Harford County Department of Planning and Zoning testified Dennis Sigler. Mr. Sigler indicated the use can meet all specific requirements of Code Section 267-53(C)(2) that allows the use of property by fraternal organizations as a special exception, with the exception that one of the front yard set back requirements to which the Applicant is asking a 15 foot variance.

The total building coverage is not more than thirty percent (30%) of the parcel area. The proposed parking area will not be located in any front yard setback, which in this case is 50 feet. The required buffer yard is provided along all boundaries.

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Mr. Sigler and the Department further believe that the subject property is unique. It has an unusual topographical condition in that the back part of the property substantially drops off to a stream which will be subject to erosion control improvements under the supervision of the Maryland Department of the Environment. Mr. Sigler also described a large swale to the front of the property. The lot itself is also somewhat irregular in shape, impacted by the taking of additional road frontage for Hanson Road by Harford County. The Property fronts on, and is impacted by, Hanson Road and Magnolia Road which are major roadways. Along this frontage, Harford County has created new road grades and sewer lines which have impacted the parcel's usability. Mr. Sigler feels that with Hanson Road having a 60 foot wide right-of-way, a decrease in the 100 foot setback to 80 feet will have no adverse impact, and is justified by the unique circumstance of the property. The parking area is to be moved to the rear of the existing garage and will be screened by existing and new vegetation. Accordingly, Mr. Sigler and the Department believe that a variance should be granted, and that the use would then in all respects meet the special exception requirements of the Code.

APPLICABLE LAW:

The Applicant is requesting a special exception to Section 267-53(C)(2) of the Harford County Code which states:

- “(2) *Civil Service clubs and fraternal organizations. These uses may be granted in the AG, RR, R1, R2, R3, R4, and VR Districts provided that:*
- (a) *Any building shall be at least one hundred feet from any adjacent residential lot and at least fifty feet from any other lot line. The front yard depth shall be at least one hundred feet, except along roads with eighty-foot rights-of-way or more, where the front yard depth shall be at least fifty feet.*
 - (b) *Total building coverage shall not be more than thirty percent of the parcel area.*
 - (c) *No parking area shall be located in any required front yard setback.*
 - (d) *A buffer yard of at least ten feet shall be provided along any boundary with an adjacent residential lot, except that, if alcoholic beverages are served, then the buffer yard shall be at least fifty feet.”*

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Furthermore, Section 267-9I of the Harford County Code, Limitations, Guides, and Standards, is applicable to this request and is discussed in further detail below.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

A review of those photographs offered by the Applicant and submitted by the Harford County Department of Planning and Zoning reveals a modest, older dwelling with detached garage on what appears to be a very well maintained parcel located at the intersection of Hanson and Magnolia Roads. The neighborhood, both according to the testimony of the Applicant's witness and the Harford County Department of Planning and Zoning Staff Report, includes single family dwellings, as well as townhouses, garden apartments, condominiums and mobile home parks. There are some commercial uses in the neighborhood as well.

The property itself has a somewhat unusual topography in that it has steep grades on the south sloping down to a stream, with the site sloping up to the improvements from Hanson Road. A portion of the property is wooded.

The proposed use is as a meeting facility for the Applicant's Motorcycle Club. Meetings should take place once a week on a regular basis, with the occasional special event. According to the Applicant the neighbors are familiar with the proposed use, and have no objection to it.

It should be noted that the Applicant expressed its willingness and desire to maintain the property in good condition so as not to become an eye sore or annoyance to the neighborhood. The photographs introduced by the Applicant, in showing a well maintained property, give credence to the Applicant's testimony.

The Applicant first requests a variance to Section 267-53(C)(2)(a) to allow a front yard depth of less than 100 feet. The Applicant's front yard depth from Hanson Road to the house is 85 feet, or 15 feet shorter than required. According to the Department of Planning and Zoning, Harford County had taken property on Hanson Road, and had done substantial grading. Furthermore, the front part of the property is partially unusable due to the location of a sewer line. The Applicant proposes to relocate the parking area now in the front part of the property to the side and rear behind the garage. Given these unusual characteristics, and because of them, it is found that the Applicant would suffer a practical difficulty if it were required to adhere to the 100' minimum setback requirement from Hanson Road. The result would be the inability of the Applicant to use the property for its fraternal purposes, property which seems to be in all other respects well suited for such a use. There further would be no impact on any adjoining property owner or on the neighborhood as a whole. A slight variance of 15 feet from an overall 100 foot setback would be virtually unnoticeable, and is mitigated by the relatively wide right-of-way of Hanson Road.

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Having provided a convincing argument for its variance, the Applicant must now show that it meets the specific requirements of Code Section 267-53(C)(2), special exception for Civil Service Clubs and Fraternal Organizations. These uses may be granted in the AG, RR, R1, R2, R3, R4 and VR Districts provided that:

- (a) *Any building shall be at least one hundred feet from any adjacent residential lot and at least fifty feet from any other lot line. The front yard depth shall be at least one hundred feet, except along roads with eighty-foot rights-of-way or more, where the front yard depth shall be at least fifty feet.*

The Applicant has requested and will be granted a variance to the 100 foot minimum front yard depth requirement from Hanson Road. The Applicant meets the requirements in this section in all other respects.

- (b) *Total building coverage shall not be more than thirty percent of the parcel area.*

The Applicant complies with this requirement.

- (c) *No parking area shall be located in any required front yard setback.*

The front yard setback on both Magnolia and Hanson Road is 50 feet. In that area exists a parking area to the front of the property, partially within the 50 foot setback, and wholly within the 85 foot front yard on Hanson Road. The Applicant has suggested that it will be relocating its parking to behind the garage as shown on the Applicant's site plan submitted to Staff Report as Attachment 3. With that suggestion to be made a condition of this Decision, the Applicant fully complies with this section.

- (d) *A buffer yard of at least ten feet shall be provided along any boundary with an adjacent residential lot, except that, if alcoholic beverages are served, then the buffer yard shall be at least fifty feet.*

The Applicant complies with this requirement. A condition of this recommended Decision is that no alcoholic beverage be served, *or consumed*, within 50' of any adjoining property line.

Accordingly, the Applicant is found to fully comply with the specific requirements of this particular special exception request.

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However, the Application must then be examined in light of the Limitations, Guides and Standards of Section 267-9I, as follows:

- (1) *The number of persons living or working in the immediate area.*

The general area in which this 2.55 acre property is located contains a mixture of residential and commercial uses. There should be no impact upon the persons living or working in the neighborhood, with appropriate conditions.

- (2) *Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic, and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.*

The property has frontage on Magnolia Road and Hanson Road. Both are County maintained roadways, with the intersection of the two roads being signalized. Sight distances in all directions are adequate. According to the Staff Report, the roads are capable of handling the relatively small amount of traffic to be generated by the use.

- (3) *The orderly growth of the neighborhood and community and the fiscal impact on the County.*

There should be no impact upon the orderly growth of the neighborhood. The most apparent impact will be the parking of vehicles on the subject property. By moving the parking area to the rear and side of the garage, and installing adequate screening, this impact should be minimized if not eliminated.

- (4) *The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.*

The proposed use should have no such characteristic, and none has been identified.

- (5) *Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the County or persons to supply such services.*

The Harford County Sheriff's Office and Maryland State Police will provide police protection. Joppa-Magnolia and Edgewood Fire Departments will provide fire and emergency protection. The property is served by public water and sewer.

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- (6) *The degree to which the development is consistent with generally accepted engineering and planning principles and practices.*

As a special exception, the use is considered to be principally permitted in this R1/ Urban Residential District, provided it adheres to all general and specific conditions, and has no particular adverse impact. It is accordingly found that this condition is met.

- (7) *The structures in the vicinity, such as schools, houses or worship, theaters, hospitals, and similar places of public use.*

There have been no such structures identified which may be impacted by the use.

- (8) *The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.*

The proposal is consistent with the Master Plan.

- (9) *The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.*

No such impacts have been identified.

- (10) *The preservation of cultural and historic landmarks.*

No cultural or historic landmarks have been identified.

Having met all specific and general requirements, the special exception must further be reviewed to determine that its overall impact will be no greater at the location proposed than at any other within its zone.

There is no evidence, and indeed compelling evidence to the contrary, that the use would have any greater impact here than somewhere else in the zone. The subject property is located on a corner of two major roadways, which surely reduces its value as residential property. Access is good. The lot itself has topographical characteristics which are somewhat unique and which certainly do not contribute to the property's use for residential purposes. The actual impact of the use by this fraternal organization, meeting once per week with some occasional events at other times, should be minimal and, in fact, less noticeable than many other potential uses. In short, while not perhaps the absolute ideal location for such a use, it is surely an acceptable one, and one which is better than many other potential locations in the zone, provided it is properly conditioned.

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CONCLUSION:

For the above reasons, it is recommended that the variance and special exception be granted, subject to the following conditions:

1. The Applicant shall prepare a detailed site plan to be reviewed and approved through the Development Advisory Committee.
2. The site plan shall clearly show the relocated parking area and screening.
3. All parking in the front yard of the property from Hanson Road shall be removed, although the Applicant may continue to maintain two pads for incidental automobile parking. The Applicant shall remove any asphalt or other paving from this area and plant the area with grass or other vegetative cover. Parking shall be relocated as shown on Applicant's parking site plan to the rear of the existing garage.
4. The relocated parking area shall be fully screened by making use of not only existing screening, but additional vegetative screening. Applicant's screening plan shall be reviewed and approved by the Harford County Department of Planning and Zoning.
5. The property shall be screened by appropriate vegetative screening along Hanson and Magnolia Roads. The Harford County Department of Planning and Zoning shall review and approve the screening plan.
6. There shall be no outside lighting other than the lighting which currently exists on the garage.
7. The only signage on the property shall be that sign currently on the garage. There shall be no additional signage of any nature on the property.
8. This approval is for the use of the Applicant only and shall terminate upon sale of the property.
9. The Club's hours shall be limited to 9:00 a.m. to 9:00 p.m. on weekdays, and 9:00 a.m. to 10:00 p.m. on weekends and holidays. Activities of any nature outside of these hours is prohibited.
10. There shall be no alcoholic beverages served or consumed within 50 feet of any property line.

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11. The garage shall be used only for incidental storage.
12. The property shall remain well maintained, and neither the property nor its use shall be allowed to become a nuisance or annoyance to the neighbors or community.

Date: September 8, 2005

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on OCTOBER 6, 2005.